

We're reviewing your proposed edits to the Discovery Plan and will revert shortly with some additional revisions. We think we can find agreement on the outstanding issues and are working to propose mutually acceptable language to avoid further back-and-forth.

Looking ahead, we'd like to set up a call to discuss the items addressed in my email below. Please let us know your availability for a call tomorrow or Friday.

Best,

Laura

Laura Harris  
King & Spalding  
M: +1 917 767 6383

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**From:** Igor Litvak <[Igor@LitvakLawNY.com](mailto:Igor@LitvakLawNY.com)>  
**Sent:** Tuesday, May 24, 2022 7:47:10 PM  
**To:** Laura Harris <[lharris@kslaw.com](mailto:lharris@kslaw.com)>; Luke Roniger <[LRoniger@KSLAW.com](mailto:LRoniger@KSLAW.com)>  
**Cc:** Andrew Michaelson <[amichaelson@kslaw.com](mailto:amichaelson@kslaw.com)>; Sumon Dantiki <[sdantiki@kslaw.com](mailto:sdantiki@kslaw.com)>; Matthew Bush <[mbush@kslaw.com](mailto:mbush@kslaw.com)>; Paul Weeks <[PWeeks@KSLAW.com](mailto:PWeeks@KSLAW.com)>  
**Subject:** Re: Google LLC v. Starovikov et al., 21-cv-10260 (DLC)

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Just filed.

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**From:** Laura Harris <[lharris@kslaw.com](mailto:lharris@kslaw.com)>  
**Sent:** Tuesday, May 24, 2022 12:56 PM  
**To:** Igor Litvak <[Igor@LitvakLawNY.com](mailto:Igor@LitvakLawNY.com)>; Luke Roniger <[LRoniger@KSLAW.com](mailto:LRoniger@KSLAW.com)>  
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**Subject:** RE: Google LLC v. Starovikov et al., 21-cv-10260 (DLC)

Thank you, Igor. Please file the Rule 41 notice as soon as possible and in any event by 11a tomorrow. Our response to the counterclaims is due tomorrow, so we'd appreciate the reassurance that we don't need to file.

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**Laura Harris**

*Partner*

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**From:** Igor Litvak <[Igor@LitvakLawNY.com](mailto:Igor@LitvakLawNY.com)>

**Sent:** Tuesday, May 24, 2022 12:33 PM

**To:** Laura Harris <[lharris@kslaw.com](mailto:lharris@kslaw.com)>; Luke Roniger <[LRoniger@KSLAW.com](mailto:LRoniger@KSLAW.com)>

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**Subject:** Re: Google LLC v. Starovikov et al., 21-cv-10260 (DLC)

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I will do a Rule 41 notice

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**From:** Igor Litvak <[Igor@LitvakLawNY.com](mailto:Igor@LitvakLawNY.com)>

**Sent:** Tuesday, May 24, 2022 12:15:11 PM

**To:** Laura Harris <[lharris@kslaw.com](mailto:lharris@kslaw.com)>; Luke Roniger <[LRoniger@KSLAW.com](mailto:LRoniger@KSLAW.com)>

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**Subject:** Re: Google LLC v. Starovikov et al., 21-cv-10260 (DLC)

Laura, I discussed the counterclaims w my clients, they agreed to withdraw them, I will withdraw them within the next 48 hours. Let's talk later this week to discuss the other issues you raised in your email, thank you.

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**From:** Laura Harris <[lharris@kslaw.com](mailto:lharris@kslaw.com)>

**Sent:** Monday, May 23, 2022 11:04:10 PM

**To:** Igor Litvak <[Igor@LitvakLawNY.com](mailto:Igor@LitvakLawNY.com)>; Luke Roniger <[LRoniger@KSLAW.com](mailto:LRoniger@KSLAW.com)>

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**Subject:** RE: Google LLC v. Starovikov et al., 21-cv-10260 (DLC)

Igor,

Thank you for providing your proposed edits to the case management statement. We are reviewing with our client and will get back to you as soon as we can.

Separately, I wanted to elaborate on my comments on our call regarding Defendants' counterclaims. The counterclaims are plainly deficient and fail to state a claim. *See, e.g., 16 Casa Duse, LLC v. Merkin*, 791 F.3d 247, 262–63 (2d Cir. 2015); *SING for Serv., LLC v. DOWC Admin. Servs., LLC*, 2022 WL 36478, \*12 (S.D.N.Y. Jan. 3, 2022); *Crye Precision LLC v. Duro Textiles, LLC*, 112 F. Supp. 3d 69, 79 (S.D.N.Y. 2015). They are also barred by the litigation privilege, *see, e.g., Front, Inc. v. Khalil*, 28 N.E.3d 15, 18 (N.Y. 2015), and the *Noerr-Pennington* doctrine, *see, e.g., Cambridge Cap. LLC v. Ruby Has LLC*, 2021 WL 4481183, at \*36–37 (S.D.N.Y. Sept. 30, 2021), and fail to meet the factors required to make declaratory judgment appropriate, *see, e.g., Dubov v. Lewis*, 2019 WL 1060652, at \*2 (S.D.N.Y. Mar. 6, 2019).

We therefore request that Defendants withdraw their counterclaims. We are preparing a motion to dismiss, which we will file on Wednesday, but would prefer not to burden the Court with motion practice that properly should be avoided. Please let us know if Defendants will agree to withdraw the counterclaims.

Finally, as we've discussed, the Court directed the parties to "confer with each other prior to the conference regarding settlement" and "whether the defendants are willing to consent to the entry of a permanent injunction[.]" ECF 63 at 1. On May 6 you indicated that you had not yet discussed these topics with your clients and that you planned to do so after filing your Answer. On our last call (May 18), after filing the Answer, you indicated that your clients are generally interested in resolving this case, that they are willing to consider a mutually agreeable permanent injunction, and that you needed to discuss with them the details of a non-litigation resolution, which would include assistance removing Glupteba from the internet, which only they could provide. You indicated that you would provide this information to Google "very soon." As I explained on our call, if your clients still intend to make a settlement offer and/or if they are willing to agree to a permanent injunction, we think it's in the best interest of the parties and the Court to provide it now. To that end, please let us know if you plan to send a settlement offer or any information regarding the terms of an acceptable permanent injunction prior to the June 1 conference.

Thanks,  
Laura

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**Laura Harris**

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**From:** Igor Litvak <[Igor@LitvakLawNY.com](mailto:Igor@LitvakLawNY.com)>

**Sent:** Friday, May 20, 2022 6:07 PM

**To:** Luke Roniger <[LRoniger@KSLAW.com](mailto:LRoniger@KSLAW.com)>; Laura Harris <[lharris@kslaw.com](mailto:lharris@kslaw.com)>